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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 ASKIA SANKOFA ASHANTI, formerly
12 known as Lorenzo Renell Cunningham,

13 Plaintiff,

14 v.

15 CALIFORNIA HEALTH CARE
16 FACILITY, et al.,

17 Defendants.

No. 2:21-CV-0516-TLN-DMC-P

FINDINGS AND RECOMMENDATIONS

18 Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42
19 U.S.C. § 1983. On January 11, 2022, the Court directed Plaintiff to pay the filing fees for this
20 case within 30 days. Plaintiff has been warned that failure to comply with court orders may result
21 in dismissal of this action for lack of prosecution. See Local Rule 110. To date, Plaintiff has not
22 complied.

23 The Court must weigh five factors before imposing the harsh sanction of dismissal.
24 See Bautista v. Los Angeles County, 216 F.3d 837, 841 (9th Cir. 2000); Malone v. U.S. Postal
25 Service, 833 F.2d 128, 130 (9th Cir. 1987). Those factors are: (1) the public's interest in
26 expeditious resolution of litigation; (2) the court's need to manage its own docket; (3) the risk of
27 prejudice to opposing parties; (4) the public policy favoring disposition of cases on their merits;
28 and (5) the availability of less drastic sanctions. See id.; see also Ghazali v. Moran, 46 F.3d 52,

53 (9th Cir. 1995) (per curiam). A warning that the action may be dismissed as an appropriate sanction is considered a less drastic alternative sufficient to satisfy the last factor. See Malone, 833 F.2d at 132-33 & n.1. The sanction of dismissal for lack of prosecution is appropriate where there has been unreasonable delay. See Henderson v. Duncan, 779 F.2d 1421, 1423 (9th Cir. 1986). Dismissal has also been held to be an appropriate sanction for failure to comply with an order to file an amended complaint. See Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992).

Having considered these factors, and in light of Plaintiff's failure to pay the filing fees as directed, the Court finds that dismissal of this action is appropriate.

Based on the foregoing, the undersigned recommends that this action be dismissed, without prejudice, for lack of prosecution and failure to comply with court rules and orders, and that all pending motions, ECF Nos. 4, 13, and 21, be denied as moot.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days after being served with these findings and recommendations, any party may file written objections with the court. Failure to file objections within the specified time may waive the right to appeal. See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: February 16, 2022



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE